

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Case No.: 1-09-46767-dem

CROWN OHIO INVESTMENTS, LLC,

Chapter 11

Debtor.

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DECISION AND ORDER ON APPLICATION FOR EXPEDITED DISCOVERY

Appearances:

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DENNIS E. MILTON
United States Bankruptcy Judge

I. INTRODUCTION

The matter is before the Court on the ex parte application (the “Application”) of creditor Wells Fargo Bank, N.A., as Trustee for the Registered Holders of LaSalle Commercial Mortgage Securities Inc, Commercial Pass-Through Certificates, Series 2005-MF1 (“Wells Fargo”) for an Order Shortening the Notice Period with respect to its Request for Document Production from Crown Ohio Investments, LLC (the “debtor”). For the reasons set forth below,

the Application is granted in part and denied in part.

II. JURISDICTION

This Court has jurisdiction over this core proceeding under 28 U.S.C. §§ 1334(b) and 157(b)(2) and the Eastern District of New York standing order of reference dated August 28, 1986. This Decision and Order constitutes the Court's findings of fact and conclusions of law to the extent required by Fed. R. Bankr. P. 7052.

III. FACTUAL BACKGROUND

On August 7, 2009, the debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. On September 21, 2009, one day before the scheduled Status Conference in this case, Wells Fargo, N.A. filed a motion for relief from the automatic stay (the "Motion"). On October 6, 2009, counsel for the debtor filed an Objection to the Motion. On October 8, 2009, the Court heard argument on the Motion and scheduled a hearing on the Motion for November 16, 2009. On November 2, 2009, the Court adjourned the hearing on the Motion and the case Status Conference to November 24, 2009.

On November 4, 2009, counsel for Wells Fargo contacted Chambers and advised that Wells Fargo intended to seek an Order directing the production of documents and shortening the time for notice of the application. On November 5, 2009, a representative of Chambers informed counsel for Wells Fargo of the specific procedure which Chambers directed to be followed with regard to such applications. Six days later, on November 11, 2009, a federal holiday on which the bankruptcy court was officially closed, counsel for Wells Fargo filed the Application. The Document Request sought the production of the following documents within one week of the filing of the Request with the Court:

1. Copies of all operating statements, rent rolls, cash flow projection, balance sheets, statements of income, expenses and taxes or other documents or communications revealing the operating position of the Debtor's business beginning one year prior to the Petition Date through the date of this Request.
2. Any and all documents or communications concerning or relating to the appraisal of or value of the Debtor's property located at 17500 Euclid Avenue, Cleveland, Ohio 44112.
3. Any and all documents concerning any communication to or from the Debtor referring or relating to the Debtor's efforts to restructure or refinance outstanding debt, develop a chapter 11 plan of reorganization or raise equity.
4. Copies of the Debtor's tax returns for the years 2006, 2007 and 2008.
5. All rent rolls since January 1, 2008.
6. All code compliance or administrative actions by city, county, local or state governmental agencies concerning the Property.

Request for Document Production at 4-5.

Although counsel for Wells Fargo states that cause existed for the production requested, no basis other than the scheduling of the hearing on the Motion is set forth in their papers. Many of the documents requested are irrelevant to the issues presented at the hearing or cover a time frame which is too broad for document production at such an early stage of this case. For example, document request number five seeks production of documents for a two year period and document request number six seeks production of documents concerning compliance with local administrative codes for this Cleveland Ohio property. Request Number three seeks documents to which a privilege may attach.

Accordingly, the Court grants the application insofar as it directs the debtor to respond to the following document request on or before November 20, 2009:

Any and all documents or communications concerning
or relating to the appraisal of or value of the Debtor's
property located at 17500 Euclid Avenue, Cleveland, Ohio 44112.

In all other respects, the Application is denied. Of course, nothing in this decision and order addresses in any way the standards for admissibility into evidence of any document at the hearing on November 24, 2009.

CONCLUSION

For the reasons set forth above, with regard to the ex parte application of creditor Wells Fargo for an Order Shortening the Notice Period concerning its Request for Document Production from the debtor, the Application is granted in part and denied in part.

Dated: Brooklyn, New York
November 13, 2009

s/ Dennis E. Milton
DENNIS E. MILTON
United States Bankruptcy Judge

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